

## Appendix: Children Born Outside the United States in Wedlock (Nationality Chart 1)

<b>Nationality Chart 1</b> <b>Children<sup>[1]</sup> Born Outside the United States in Wedlock</b>			
PERIOD IN WHICH CHILD WAS BORN	CITIZENSHIP OF PARENTS AT TIME OF CHILD'S BIRTH	PARENTS' RESIDENCE & PHYSICAL PRESENCE PRIOR TO CHILD'S BIRTH	CHILD'S RETENTION REQUIREMENT
<i>STEP 1: Determine period in which child was born</i>	<i>STEP 2: Determine parents' citizenship at time of child's birth</i>	<i>STEP 3: Did U.S. citizen (USC) parent meet residence or physical presence requirement prior to birth? (If yes, child was a USC at birth)</i>	<i>STEP 4: Did child meet retention requirement (if any)? (Child lost citizenship on date it became impossible to meet requirement)</i>
<i>Prior to May 24, 1934</i>	Either parent a USC <sup>[2]</sup>	USC parent resided in the United States	Not Applicable
	Both parents USCs	At least one USC parent resided in the United States	Not Applicable
<i>On or After May 24, 1934</i>			5 years residence <sup>[3]</sup> in the United States or Outlying Possession (OLP) between ages 13 and 21 (must start before age 16) <sup>[4]</sup>
<i>and Prior To Jan. 13, 1941</i>	One USC parent and one alien parent	USC parent resided in the United States	<p>OR</p> <p>5 years continuous physical presence in the United States between ages 14 and 28 (must start before age 23)</p> <p>OR</p> <p>2 years continuous physical presence in the United States between ages 14 and 28 (must start before age 26)</p> <p>OR</p> <p>Exempt, if at time of child's birth, USC parent was employed by U.S. government or specified organization</p>

		USC parent resided in United States or OLP for 10 years, at least 5 years of which were after age 16	5 years residence in the United States or OLP between ages 13 and 21 (must start before age 16) <sup>[6]</sup> OR 5 years continuous physical presence in the United States between ages 14 and 28 (must start before age 23) <sup>[7]</sup> OR 2 years continuous physical presence in the United States between ages 14 and 28 (must start before age 26) OR Exempt, if at time of child's birth, USC parent was employed by U.S. government or specified organization (exemption does not apply if parent used a special provision in column 3) <sup>[8]</sup>
<i>On or After Dec. 24, 1952</i>	<b>One USC parent and one alien parent</b>	Special provisions for parents with honorable service in the U.S. armed forces:  (1) Between Dec. 7, 1941 and Dec. 31, 1946, 10 years of residence, at least 5 years of which were after age 12  (2) Between Jan. 1, 1947 and Dec. 24, 1952, 10 years of physical presence, at least 5 years of which were after age 14 <sup>[5]</sup>	
<i>and Prior To Nov. 14, 1986</i>	<b>Both parents USC<sub>s</sub></b>	At least one USC parent resided in the United States or OLP <sup>[9]</sup>	Not Applicable
	<b>Both parents USC<sub>s</sub></b>	At least one USC parent resided in the United States or OLP <sup>[10]</sup>	Not Applicable
	<b>One USC parent and one alien parent</b>	USC parent physically present in the United States or OLP for 10 years, at least 5 years of which were after age 14 <sup>[11]</sup>	Not Applicable
<i>On or After Nov. 14, 1986</i>	<b>Both parents USC<sub>s</sub></b>	At least one USC parent resided in the United States or OLP	Not Applicable

One USC parent and one alien parent	USC parent physically present in the United States or OLP for 5 years, at least 2 years of which were after age 14 [12]	Not Applicable
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## Footnotes

1 [^]

A child must meet the definition of child under the Immigration and Nationality Act (INA). See Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child for Citizenship and Naturalization [[12 USCIS-PM H.2](#) ([..//HTML/PolicyManual-Volume12-PartH-Chapter2.html](#))].

2 [^]

USC mother added by Immigration and Nationality Technical Corrections Act of 1994, [Pub. L. 103-416](#) (<https://www.gpo.gov/fdsys/pkg/STATUTE-108/pdf/STATUTE-108-Pg4305.pdf>), 108 Stat. 4305 (October 5, 1994).

3 [^]

Includes periods spent abroad while employed by the U.S. government or an international organization as defined in [22 U.S.C. 288](#) (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>), or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

4 [^]

See former Section 301(b) in the INA of 1952, [Pub. L. 82-414](#) (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>), 66 Stat. 163, 236 (June 27, 1952). The child's residence must also start before the INA of 1952's effective date, December 24, 1952.

5 [^]

Includes periods spent abroad while employed by the U.S. government or an international organization as defined in [22 U.S.C. 288](#) (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>), or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

6 [^]

See former Section 301(b) in the INA of 1952, [Pub. L. 82-414](https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf) (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>), 66 Stat. 163, 236 (June 27, 1952). The child's residence must also start before the INA of 1952's effective date, December 24, 1952.

7 [^]

See Act of October 27, 1972, [Pub. L. 92-584](https://www.gpo.gov/fdsys/pkg/STATUTE-86/pdf/STATUTE-86-Pg1289.pdf) (<https://www.gpo.gov/fdsys/pkg/STATUTE-86/pdf/STATUTE-86-Pg1289.pdf>), 86 Stat. 1289. The child's residence must also start before the Act's effective date, October 27, 1972.

8 [^]

Absence of less than 12 months in the aggregate during the 5-year period does not break continuity of residence or physical presence. Absence of less than 60 days in the 2-year period in the aggregate does not break continuity of physical presence. Honorable service in the U.S. armed forces counts as residence or physical presence.

#### *Retention Requirements*

- A child is relieved from the retention requirements if, prior to his or her 18th birthday, the child begins to reside permanently in the United States and the foreign national parent naturalizes.
- The Act of October 10, 1978, [Pub. L. 95-423](https://www.gpo.gov/fdsys/pkg/STATUTE-92/pdf/STATUTE-92-Pg1046.pdf) (<https://www.gpo.gov/fdsys/pkg/STATUTE-92/pdf/STATUTE-92-Pg1046.pdf>), repealed retention requirements prospectively only. Anyone born on or after October 11, 1952 (not age 26 on October 10, 1978) was no longer subject to retention requirements. Since the amending legislation was prospective only, it did not restore citizenship to anyone who, prior to its enactment, had lost citizenship for failing to meet the retention requirements.

9 [^]

Includes periods spent abroad while employed by the U.S. government or an international organization as defined in [22 U.S.C. 288](http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim) (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>), or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

10 [^]

Includes periods spent abroad while employed by the U.S. government or an international organization as defined in [22 U.S.C. 288](http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim) (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>), or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

11 [^]

Includes periods spent abroad while employed by the U.S. government or an international organization as defined in 22 U.S.C. 288 (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>), or as a dependent, unmarried son or daughter, who is member of the household of such an employee.

12 [^]

See former Section 301(b) in the INA of 1952, Pub. L. 82-414 (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>), 66 Stat. 163, 236 (June 27, 1952). The child's residence must also start before the INA of 1952's effective date, December 24, 1952.

**Appendix: Children Born Outside the United States Out of Wedlock (Nationality Chart 2)****Nationality Chart 2 (4 tables below)*****Children<sup>[1]</sup> Born Outside the United States Out of Wedlock*****Child Born Out of Wedlock to U.S. Citizen Mother (Table 1 of 4)**

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
<i>Prior To May 24, 1934</i>	The child was born an alien. <b>HOWEVER</b> , the child became a U.S. citizen (USC) retroactively to birth, effective on Jan. 13, 1941, if the child's mother resided in the United States or Outlying Possession (OLP) prior to the child's birth, <b>UNLESS</b> the child was legitimated by the alien father prior to Jan. 13, 1941.
<i>On or After May 24, 1934 and Prior To Dec. 24, 1952</i>	The mother resided in the United States or OLP at any time prior to the child's birth.
<i>On or After Dec. 24, 1952 and Prior To June 12, 2017</i>	The mother maintained at least 1 year of continuous physical presence in the United States or OLP at any time prior to the child's birth.
<i>On or After June 12, 2017<sup>[2]</sup></i>	The mother was physically present in the United States or OLP for at least 5 years prior to the child's birth (at least 2 years of which were after age 14).

<b>Child Born Out of Wedlock to U.S. Citizen Father and Alien Mother <i>Child Legitimated by Father</i> (Table 2 of 4)</b>	
<b>PERIOD IN WHICH CHILD WAS BORN</b>	<b>ELIGIBILITY REQUIREMENTS</b>
<b>Prior To May 24, 1934</b>	<ul style="list-style-type: none"><li>• The child was legitimated at any time after birth under the laws of the father's domicile;</li><li>• The USC father resided in the United States prior to the child's birth; and</li><li>• No residence required for the child to retain U.S. citizenship.</li></ul>
<b>On or After May 24, 1934</b>	<ul style="list-style-type: none"><li>• The child was legitimated at any time after birth under the laws of the father's domicile;</li><li>• The USC father resided in the United States prior to the child's birth; <sup>[3]</sup> and</li></ul>
<b>and Prior To Jan. 13, 1941</b>	<ul style="list-style-type: none"><li>• The child met retention requirements.</li></ul> <p style="text-align: right;"><i>See Nationality Chart 1 for retention requirements.</i></p>
<b>On or After Jan. 13, 1941</b>	<ul style="list-style-type: none"><li>• The child was legitimated before age 21 under the laws of the father's domicile;</li><li>• The USC father resided in the United States or OLP for at least 10 years, at least 5 years of which were after age 14, at the time of the child's birth; and</li></ul>
<b>and Prior To Dec. 24, 1952</b>	<ul style="list-style-type: none"><li>• The child met retention requirements.</li></ul> <p style="text-align: right;"><i>See Nationality Chart 1 for special provisions and for retention requirements.</i></p>

**On or After  
Dec. 24,  
1952**

**and Prior To  
Nov. 14,  
1986**

- The child was legitimated before age 21 under the laws of the father's domicile; <sup>[4]</sup>
- The child was legitimated **PRIOR TO** Nov. 14, 1986;
- The child must be unmarried;
- The USC father was physically present in the United States or OLP for 10 years, at least 5 years of which were after age 14, at the time of the child's birth; and
- No residence required for the child to retain U.S. citizenship.

*See Nationality Chart 1 for special provisions.*

**Child Born Out of Wedlock to U.S. Citizen Father and Alien Mother  
Child Legitimated or Acknowledged by Father (Table 3 of 4)**

DATE RELATIONSHIP ESTABLISHED	ELIGIBILITY REQUIREMENTS
<b>On or After Nov. 14, 1986</b>	<ul style="list-style-type: none"> <li>• The child was legitimated OR acknowledged before age 18* (legitimated under the laws of the child's residence or domicile; or paternity acknowledged in writing under oath; or paternity established by court order);</li> <li>• A blood relationship between the child and father was established;</li> <li>• The father, unless deceased, has agreed in writing to provide financial support until child reaches age 18; <sup>[5]</sup></li> <li>• The child must be unmarried; and</li> <li>• The USC father was physically present in the United States or OLP for 5 years, at least 2 years of which were after age 14, at the time of the child's birth.</li> </ul>

\*A child age 18 or over on Nov. 14, 1986 could use the old law. <sup>[6]</sup> A child at least age 15, but under 18, could use either law (date of birth on or after Nov. 15, 1968).

**Child Born Out of Wedlock to Two U.S. Citizen Parents (Table 4 of 4)**

PERIOD IN WHICH CHILD WAS BORN	ELIGIBILITY REQUIREMENTS
<i>On or After Dec. 24, 1952  and Prior To Nov. 14, 1986</i>	<p>If both parents are U.S. citizens, the child may qualify under either parent. The child must meet the requirements for acquisition of citizenship under the mother OR the father; the child does not need to meet both requirements.</p>
	<b><i>Citizenship through U.S. Citizen Mother</i></b>
	<ul style="list-style-type: none"><li>• The mother had at least 1 year of continuous physical presence in the United States or OLP at any time prior to the child's birth.</li></ul>
	<b><i>Citizenship through U.S. Citizen Father</i></b>
	<ul style="list-style-type: none"><li>• The child was legitimated before age 21 under the laws of the father's domicile; [7]</li><li>• The child was legitimated <b>PRIOR TO</b> Nov. 14, 1986;</li><li>• The child must be unmarried; and</li><li>• Either parent resided in the United States at any time prior to the child's birth.</li></ul>

***Citizenship through U.S. Citizen Mother***

- The mother had at least 1 year of continuous physical presence in the United States or OLP at any time prior to the child's birth.

***Citizenship through U.S. Citizen Father***

- The child was legitimated OR acknowledged before age 18\* (legitimated under the laws of the child's residence or domicile; or paternity acknowledged in writing under oath; or paternity established by court order);
- A blood relationship between the child and father was established;
- The father, unless deceased, has agreed in writing to provide financial support until child reaches age 18; [8]
- The child must be unmarried; and
- Either parent resided in the United States at any time prior to the child's birth.

\*A child age 18 or over on Nov. 14, 1986 could use the old law.<sup>[9]</sup> A child at least age 15, but under 18, could use either law (date of birth on or after Nov. 15, 1968).

**On or After  
Nov. 14,  
1986**

**and Prior To  
June 12,  
2017**

**On or After  
June 12,  
2017**

### ***Citizenship through U.S. Citizen Father***

- The child was legitimated OR acknowledged before age 18 (legitimated under the laws of the child's residence or domicile; or paternity acknowledged in writing under oath; or paternity established by court order);
- A blood relationship between child and father was established;
- The father, unless deceased, has agreed in writing to provide financial support until child reaches age 18;<sup>[10]</sup>
- The child must be unmarried; and
- Either parent resided in the United States at any time prior to the child's birth.

If the child does not meet these requirements, but one or both parents resided in the United States at any time prior to the child's birth, the officer should consult the Office of Chief Counsel (OCC).

## **Footnotes**

1 [^]

A child must meet the definition of child under the Immigration and Nationality Act (INA). See Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child for Citizenship and Naturalization [[12 USCIS-PM H.2 \(..//HTML/PolicyManual-Volume12-PartH-Chapter2.html\)](#)].

2 [^]

See Sessions v. Morales-Santana ([https://www.supremecourt.gov/opinions/16pdf/15-1191\\_2a34.pdf](https://www.supremecourt.gov/opinions/16pdf/15-1191_2a34.pdf)), 137 S.Ct. 1678 (2017).

3 [^]

Includes periods spent abroad while employed by the U.S. government or an international organization as defined in [22 U.S.C. 288](http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim) (<http://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter7/subchapter18&edition=prelim>), or as the dependent unmarried son who resided as a member of the employee's household during any relevant period(s) of absence from the United States.

4 [^]

In cases arising within the Ninth Circuit, the laws of the father's residence and the laws of the child's residence must be considered to determine whether legitimization occurred. See *Burgess v. Meese*, 802 F.2d 338 (9th Cir. 1986).

5 [^]

For additional information regarding a written statement of financial support, see Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section C, Child Born Out of Wedlock [[12 USCIS-PM H.3\(C\)](#) ([..//HTML/PolicyManual-Volume12-PartH-Chapter3.html](#))].

6 [^]

See Child Born Out Of Wedlock to U.S. Citizen Father and Alien Mother; Child Legitimated by Father (Table 2 of 4).

7 [^]

In cases arising within the Ninth Circuit, the laws of the father's residence and the laws of the child's residence must be considered to determine whether legitimization occurred. See *Burgess v. Meese*, 802 F.2d 338 (9th Cir. 1986).

8 [^]

For additional information regarding a written statement of financial support, see Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section C, Child Born Out of Wedlock [[12 USCIS-PM H.3\(C\)](#) ([..//HTML/PolicyManual-Volume12-PartH-Chapter3.html](#))].

9 [^]

See Child Born Out Of Wedlock to U.S. Citizen Father and Alien Mother; Child Legitimated by Father (Table 2 of 4).

10 [^]

For additional information regarding a written statement of financial support, see Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 3, U.S. Citizens at Birth (INA 301 and 309), Section C, Child Born Out of Wedlock [[12 USCIS-PM H.3\(C\) \(../HTML/PolicyManual-Volume12-PartH-Chapter3.html\)](#)].

### Appendix: Derivative Citizenship of Children (Nationality Chart 3)

## Nationality Chart 3

### *Derivative Citizenship of Children<sup>[1]</sup>*

A child may derive U.S. citizenship during the below listed historical periods if such child was under the statutory age, AND the child became a lawful permanent residence (LPR), AND the parent(s) naturalized. It does not matter in which order the actions occurred.

PERIOD IN WHICH LAST ACTION TOOK PLACE	CHILD BECAME LPR BEFORE STATUTORY AGE OF	NATURALIZATION OF PARENT(S) PRIOR TO CHILD'S STATUTORY AGE	ADDITIONAL REMARKS
<i>Prior To May 24, 1934</i>	21 years old	At least one parent naturalized	None
<i>After May 24, 1934</i>	21 years old	At least one parent naturalized	U.S. citizenship effective 5 years from date child becomes an LPR <sup>[2]</sup>
<i>and Prior To Jan. 13, 1941</i>	21 years old	Both parents <sup>[3]</sup> naturalized	None
<i>After Jan. 13, 1941 and Prior To Dec. 24, 1952</i>	18 years old	Both parents <sup>[4]</sup> naturalized	Child born out of wedlock derived on Dec. 24, 1952 if under age 16 and had remained an LPR <sup>[5]</sup>

<b>On or After Dec. 24, 1952</b>	18 years old	Both parents <sup>[6]</sup> naturalized	Child unmarried (does not include adopted children, but adopted children may derive through the naturalization of their biological parent(s) after adoption if all other requirements are met) <sup>[7]</sup>
<b>On or After Oct. 5, 1978 and Prior To Feb. 27, 2001</b>	18 years old	Both parents <sup>[8]</sup> naturalized	Child unmarried (includes child adopted before age 16 who is residing with adoptive parent(s) at the time of their naturalization) <sup>[9]</sup>
<b>On or After Feb. 27, 2001</b>	18 years old	At least one parent is a U.S. citizen by birth or naturalization	Child resides in the United States in legal and physical custody of U.S. citizen parent (includes adopted child of U.S. citizen; must meet <u>INA 101(b)(1)</u> ( <a href="http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-1/0-0-0-29/0-0-0-101/0-0-0-434.html">http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-1/0-0-0-29/0-0-0-101/0-0-0-434.html</a> ) requirements for adopted children)

## Footnotes

1 [^]

A child must meet the definition of child under the Immigration and Nationality Act (INA). See Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child for Citizenship and Naturalization [[12 USCIS-PM H.2 \(./HTML/PolicyManual-Volume12-PartH-Chapter2.html\)](#)]. A child not legitimated by the father may only derive from the mother. In cases with two U.S. citizen parents where the child is born out of wedlock on or after June 12, 2017, the Office of Chief Counsel (OCC) advises that officers first determine whether the child acquired citizenship through the U.S. citizen father under INA 309(a), as that standard is unaffected by *Morales-Santana*. If the child did not acquire citizenship through the U.S. citizen father, OCC would like to review the case because it is still considering, in consultation with the Department of State (DOS) and Department of Justice (DOJ), the standard under which a U.S. citizen mother can pass citizenship to a child born out of wedlock to two U.S. citizen parents.

2 [^]

Child relieved of the remainder of the 5-year waiting period if the naturalized parent meets definition of "both parents."

### 3 [^]

The definition of "both parents" includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce; or
- The mother of a child born out of wedlock.

### 4 [^]

The definition of "both parents" as found in Section 313-14 of the Nationality Act of 1940, Pub. L. 76-853, 54 Stat. 1145-46 (October 14, 1940) includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce or a legal separation; or
- The foreign national parent who naturalizes when the other parent is already a U.S. citizen since the child's birth.

### 5 [^]

Once the child was legitimated under the age of 16, both parents were required to naturalize.

### 6 [^]

The definition of "both parents" as found in former INA 321 and former INA 320, Pub. L 82-414 (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>), 66 Stat. 163, 245 (June 27, 1952) includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce or a legal separation;
- The mother of a child born out of wedlock, as long as the child had not been legitimated (if a child was properly legitimated under the age of 16, the law required both parents to naturalize); or
- The foreign national parent who naturalizes when the other parent is already a U.S. citizen since the child's birth.

### 7 [^]

In the Second Circuit (New York, Connecticut, and Vermont), the child is not required to become an LPR before the age of 18, provided that the child begins to reside permanently in the United States while under the age of 18. A child begins to reside permanently in the United States when the child is physically in the United States, intends to reside in the United States permanently, and has taken some official action to accomplish that, such as applying for lawful permanent residence. For additional information, officers should contact their local OCC counsel.

### 8 [^]

The definition of "both parents" as found in former INA 321, Pub. L 82-414 (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>), 66 Stat. 163, 245 (June 27, 1952) includes:

- The surviving parent should the other parent die;
- The naturalized parent having legal custody in the case of a divorce or a legal separation; or
- The mother of a child born out of wedlock, as long as the child had not been legitimated (if a child was properly legitimated under the age of 16, the law required both parents to naturalize).

The definition of "both parents" as found in former INA 320, Pub. L 82-414 (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>), 66 Stat. 163, 245 (June 27, 1952) includes:

- The foreign national parent who naturalizes when the other parent is already a U.S. citizen since the child's birth.
- In the case of a child with one adoptive parent and one natural parent, the adoptive parent must naturalize. He or she may not be a native-born U.S. citizen.

9 [^]

An adopted child must be residing in the United States, with lawful admission, in the custody of the adoptive parent(s) at the time of the parent's naturalization, meet all the requirements for adopted children in IINA 101(b)(1) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-29/0-0-0-101/0-0-434.html>), and be adopted by a certain age depending on the period of last action:

- On or after October 5, 1978 and prior to November 29, 1981, adoption before age 16.
- On or after November 29, 1981 and prior to February 27, 2001, adoption before age 18.

**Appendix: Children of U.S. Citizens Regularly Residing Outside United States (INA 322) (Nationality Chart 4)**

## **Nationality Chart 4**

### ***Children of U.S. Citizens Regularly Residing Outside the United States (INA 322)<sup>[1]</sup>***

**GENERAL REQUIREMENTS**

**PHYSICAL PRESENCE  
OF  
PARENT OR  
GRANDPARENT**

- Must meet the definition of child under INA 101(c)(1) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-0-0-29/0-0-0-101/0-0-0-434.html>).<sup>[2]</sup>
- The child has at least one U.S. citizen (USC) parent by birth or through naturalization (including an adoptive parent). An adoptive parent must meet the requirements of INA 101(b)(1)(E) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-0-0-29/0-0-0-101/0-0-0-434.html>), INA 101(b)(1)(F) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-0-0-29/0-0-0-101/0-0-0-434.html>), or INA 101(b)(1)(G) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-0-0-29/0-0-0-101/0-0-0-434.html>).
- The child's USC parent or USC grandparent meets physical presence requirements.
- The child is under 18 years of age (at the time of adjudication and the taking of the Oath of Allegiance,<sup>[3]</sup> unless the Oath is waived because the child is unable to understand its meaning by reason of mental incapacity or young age).
- The child is residing outside of the United States in the legal and physical custody of the USC parent, or a person who does not object to the application if the USC parent is deceased.
- At the time the application is approved and time of naturalization, the child is lawfully admitted, physically present, and maintaining a lawful status in the United States. Both the child and the citizen parent must appear at an interview.

#### ***Children of Military Members***

For children of military members authorized to accompany the member abroad and residing with the military member parent:

- The parent's authorized period abroad counts as physical presence in the United States;
- The child does not need to reside in the United States in lawful status; and

#### **U.S. Citizen Parent**

USC parent was physically present in the United States or its outlying possessions for at least 5 years (at least 2 years of which were after age 14)

**OR**

#### **U.S. Citizen Grandparent**

If the USC parent has died, the USC parent must have met the physical presence requirement stated above at time of death. If the child's USC parent does not meet the requirement, the child may rely on the physical presence of the child's USC grandparent (at least 5 years, at least 2 years of which were after age 14), provided the grandparent meets the requirement as of the USC parent's time of death.

- The child may take the Oath abroad.<sup>[4]</sup>

***U.S. Citizen Grandparent or Legal Guardian Filing on Behalf of Child***

If the USC parent has died, the child's USC grandparent or USC legal guardian may file on the child's behalf within 5 years of the USC parent's death.

## Footnotes

1 [^]

Since the enactment of the Immigration and Nationality Act (INA) of 1952, Pub. L. 82-414 (<https://www.gpo.gov/fdsys/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf>) (June 27, 1952), Congress has provided for the naturalization of a child under age 18 upon petition by the U.S. citizen parent. See INA 322 (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-10018.html>). The requirements varied with different amendments, but naturalization under this provision always required an application or petition by the parent; citizenship was not automatic.

2 [^]

See Volume 12, Citizenship & Naturalization, Part H, Children of U.S. Citizens, Chapter 2, Definition of Child for Citizenship and Naturalization [12 USCIS-PM H.2 (<..//HTML/PolicyManual-Volume12-PartH-Chapter2.html>)]. See INA 101(c)(1) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-101/0-0-0-434.html>).

3 [^]

See Volume 12, Citizenship & Naturalization, Part J, Oath of Allegiance [12 USCIS-PM J (<..//HTML/PolicyManual-Volume12-PartJ.html>)].

4 [^]

See INA 322(d) (<http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-10018.html>).